

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2334 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO
1- Yes 2-5 No

NATIONAL INSURANCE CO.LTD.

Versus

BHIKHABHAI VAGHJIBHAI PARMAR

Appearance:

MS MEGHA JANI for Petitioner

MR BS PATEL for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE D.P.BUCH

Date of decision: 05/10/1999

ORAL JUDGEMENT

Heard the learned counsel for the appellant and for respondent No.1 (original claimant). Respondents No.2 and 3 being owner and driver of the rickshaw in question had remained absent even before the Tribunal.

2. As a result of the hearing and discussion a consensus has been arrived at between the learned counsel on the basis of which, after perusing a copy of the policy in question (Exh.40), and the deposition of the Insurer's witness Nrupeshkumar Vasudev, learned counsel have agreed that there cannot be any controversy that by virtue of the additional premium paid at the rate of Rs.50/- per passenger, the risk in respect of each such passenger up to a total of three passengers is covered, subject to a limit of Rs.20,000/- in respect of each passenger. It, therefore, appears to be obvious and is also agreed between the learned counsel, that the liability of the appellant-Insurer cannot exceed Rs.20,000/- qua the claim of the original claimant.

3. The impugned judgment and award is, therefore, required to be modified to the aforesaid extent, and is accordingly so modified only to the aforesaid extent.

4. It is clarified that the appellant shall be obliged to pay costs and interest only on this amount as directed by the Tribunal. It is further clarified that the claim awarded in favour of the original claimant, as against the owner and driver of the rickshaw is not modified and stands confirmed.

5. This appeal is, therefore, partly allowed to the aforesaid extent with no order as to costs. Decree accordingly.

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msp.